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- - - - - June 15, 1993 - - - - -

Jack Snell, Ph.D.
Associate Director
Building and Fire Research Laboratory
National Institute of Standards and Technology
Building 224, Room A247
Gaithersburg, MD 20899

Dear Dr. Snell:

On Friday, June 11, 1993, Nevada State Fire Marshal Raymond Blehm and New Hampshire Deputy Attorney General Jeffrey Spencer appeared on behalf of this Association before the Technical Advisory Group on Fire Safe Cigarettes, chaired by your employee, Dr. Richard Gann.

Our representatives were treated in a condescending and hostile manner by Dr. Gann. They were denied an opportunity to ask a number of questions which we believe are raised by Dr. Gann's work in this area. His disrespectful behavior demonstrates no interest in a constructive working relationship with NASFM. At some time in the near future, we would like some formal indication of how Dr. Gann's actions are viewed by NIST management.

We trust you will review the transcript and minutes of the meeting. As you will read, Dr. Gann's actions were offensive in two ways:

1. He denied our representatives any real opportunity to present our concerns. Earlier in the week, Mr. Blehm asked Dr. Gann if the NASFM presentation might be scheduled earlier in the day to accommodate airline flights. Dr. Gann told Mr. Blehm that the meeting was "informal" and that the NASFM representatives would be able to participate in the discussion.

In the meeting, both Messrs. Blehm and Spencer attempted to participate. Dr. Gann refused their various requests and denied he had raised the prospect. A CPSC official confirmed that the statute reserved debate to TAG members but said, "We have broken that law before".

During a lunch break, Dr. Gann discouraged Mr. Blehm from reading his prepared statement and asked that he summarize his views. Mr. Spencer attempted to speak to specific technical concerns, but was treated in a hostile fashion;

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2. Dr. Gann limited the discussion to two irrelevant and condescending questions:

He asked, "Where did you get those documents?" when Mr. Spencer first attempted to express our concerns about a draft of a NIST report on this subject.

For the record, NASFM was provided a great many documents--including minutes, some transcripts, studies and final and draft reports--from CPSC staff and TAG member Jack Gerard. During the meeting, our representatives were provided the draft TAG report by CPSC staff.

Dr. Gann also asked, "Who advised you?" as if to suggest that our members are intellectually incapable of reading and thinking about technical matters. Again, for the record, NASFM was briefed by CPSC staff, Dr. Dietrich Hoffman (a member of the Science panel), Mr. Gerard, and by Dr. Frederic Clarke, who we retained earlier this year as a science and technical advisor, primarily to help NASFM with codes and standards issues. Dr. Clarke has also advised the CPSC and the tobacco industry on this matter. He is, I am sure you would agree, a man of superb credentials and integrity. As you know, NASFM early on identified the need for high quality technical guidance.

These were the two questions asked by Dr. Gann, and we have just answered them here. Our questions, however, are not answered. Indeed, they were ignored and even ridiculed.

The draft NIST report appears to contain several key inconsistencies and unresolved problems. It makes the statement that states are eager for the proposed standardized test method. No doubt, the final report will do much the same. We are eager for a good test method, but to date documents produced by the TAG raise more questions that must be answered before a standardized test method would be acceptable.

Dr. Gann's actions lead us to several conclusions. First, it is clear that further discussion with NIST or the TAG on this matter is a waste of time.

Second, it is clear that we must turn to other means to have our questions answered.

In the next few weeks, NIST will receive a detailed request for information under the provisions of the Freedom Of Information Act.

Third, so there is no doubt, we will reaffirm our strong support for fire safe cigarettes and a proper standardized test method.

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In our brief conversation two weeks ago, you urged NASFM not "to help those who want to stand in the way of progress". From what our representatives saw last Friday and the little they were told, we do not characterize this project as "progress". It is, as best as we can tell, a "beginning" and not necessarily a "good" one. But, Dr. Gann's mistreatment of our two members certainly is not progress towards the sort of relationship we envisioned between NASFM and NIST.

Sincerely,



Francis A. McGarry
President

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